

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIE STANDLEY,

Plaintiff,

v.

THOMAS ATKINSON, et al.,

Defendants.

CASE NO. C13-5156 BHS

ORDER DENYING MOTION TO  
PROCEED IN FORMA  
PAUPERIS AND DISMISSING  
COMPLAINT

This matter comes before the Court on Willie Standley's ("Standley") application to proceed in forma pauperis (Dkt. 1) and proposed complaint (Dkt. 1-1). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby denies the motion to proceed in forma pauperis and dismisses the complaint.

Standley filed a 42 U.S.C. § 1983 complaint against Defendants alleging they have violated his constitutional right to due process and have engaged in a conspiracy to violate that right. Dkt. 1-1. He claims that Defendants, allegedly employees of the Department of Social and Health Services Division of Child Support Services ("DCS"), violated his due process rights by unlawfully imputing income to him, an unemployable, incarcerated individual, in violation of RCW 26.19.071(6), causing him to incur past-due

1 child support. *Id.* at 9. He alleges that to collect the past-due balance, “DCS  
2 administratively issued an order to withhold and deliver, presented it to the Wash. DOC  
3 and had” his “accounts drained to \$0.00 to pay” the child support. *Id.* at 10.

4 The district court may permit indigent litigants to proceed *in forma pauperis* upon  
5 completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the  
6 “privilege of pleading *in forma pauperis* . . . in civil actions for damages should be  
7 allowed only in exceptional circumstances.” *Wilborn v. Escalderon*, 789 F.2d 1328 (9th  
8 Cir. 1986). Moreover, the court has broad discretion in denying an application to proceed  
9 *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied* 375  
10 U.S. 845 (1963).

11 A federal court may dismiss *sua sponte* pursuant to Fed. R. Civ. P. 12(b)(6) when  
12 it is clear that the plaintiff has not stated a claim upon which relief may be granted. *See*  
13 *Omar v. Sea Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987) (“A trial court may  
14 dismiss a claim *sua sponte* under Fed. R. Civ. P. 12(b)(6) . . . . Such a dismissal may be  
15 made without notice where the claimant cannot possibly win relief.”). *See also* *Mallard*  
16 *v. United States Dist. Court*, 490 U.S. 296, 307 (1989) (there is little doubt a federal court  
17 would have the power to dismiss a frivolous complaint *sua sponte*, even in absence of an  
18 express statutory provision). A complaint is frivolous when it has no arguable basis in  
19 law or fact. *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984).

20 Although Standley may meet the indigency requirements, his complaint fails to  
21 allege or demonstrate that he has exhausted all administrative remedies available to him.  
22 Based on his complaint, the Court does not have jurisdiction over his case.

1 Therefore, it is hereby **ORDERED** that Standley's application to proceed in forma  
2 pauperis (Dkt. 1) is **DENIED**, and his case is **DISMISSED without prejudice**.

3 Dated this 21st day of March, 2013.

4  
5 

6 BENJAMIN H. SETTLE  
7 United States District Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22